

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
JOSEPH W. FOLEY,

Plaintiff,

- against -

CAPITAL ONE, N.A.,

Defendant.
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25-CV-1526 (VSB) (RWL)

ORDER

ROBERT W. LEHRBURGER, United States Magistrate Judge.

This order resolves Plaintiff's letter motion to compel and request for sanctions at Dkt. 74. The motion is granted in part and denied in part as follows:

1. The Court sua sponte extends discovery.

Fact depositions and discovery completed: Aug. 15, 2025

Opening expert disclosures: Aug. 29, 2025

Responding expert disclosures: Sept. 15, 2025

Expert discovery completed: Sept. 29, 2025

2. Plaintiff's request for admissions (Dkt. 75 Ex. C) shall be deemed timely served and shall be answered by Defendant.

3. Defendant shall identify any documents being withheld on the basis of its objections to Plaintiff's request for documents ("RFP"s).

4. Defendant's objections to RFP 9 are overruled in part. Defendant shall produce documents sufficient to show any written policies or procedures governing personal guarantees for business credit card products in effect at the time Plaintiff's business accounts were opened.

5. Defendant's objections to Plaintiff's RFPs are otherwise sustained, subject to Defendant's identification of documents it has withheld based on the objections. This ruling is without prejudice to Plaintiff challenging Defendant's non-production of particular documents identified as withheld by Defendant.

6. The parties will be precluded from offering as evidence any document that they did not produce during discovery in response to a document request made by the other party.

7. To the extent Defendant has not affixed an identifying number (typically referred to as a "Bates" number) to documents it has produced, Defendant shall reproduce all pages of each document with such identifying number affixed.

8. Defendant's objections to Plaintiff's interrogatory ("Rog") 1 are overruled; Defendant shall answer the interrogatory.

9. Defendant shall supplement its answer to Rog 2 by identifying the specific documents (by identification number) in its production that support the contention.

10. Defendant shall supplement its answer to Rog 5 by describing in greater detail the investigation it made of Plaintiff's disputes in compliance with the Fair Credit Reporting Act, and shall identify who conducted it, when it was conducted, the tools or platform used, and the findings. If the relevant information is set forth in documents produced, Defendant may answer the interrogatory by reference to the identification number(s) of the document.

11. Defendant's objections to Rog 8 are overruled. Defendant shall answer the interrogatory.

12. Defendant's objections to Rog 13 are overruled. Defendant shall answer the interrogatory.

13. Defendant's objections to interrogatories are otherwise sustained.

14. Plaintiff's request Defendant produce an affidavit at this time is denied; there is no obligation to do so.

15. Defendant shall comply with all requirements in this order at paragraphs 2-4 and 7-12 by **July 24, 2025**.

16. Plaintiff's request for monetary sanctions is denied given the extent to which Defendant's objections have been upheld; denial of Plaintiff's demand for an affidavit; Plaintiff's insistence on compliance with requests for admission that were served after the deadline to do so; and consequent failure to demonstrate bad faith.

The Clerk of Court is respectfully directed to terminate the letter motion at Dkt. 74.

SO ORDERED,



ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Dated: July 15, 2025
New York, New York

Copies transmitted this date to all parties.